

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

APR 17 1996

In the Matter of)

Responsible Accounting Officer)
Letter 20, Uniform Accounting for)
Postretirement Benefits Other Than)
Pensions in Part 32)

CC Docket No. 96-22

Amendments to Part 65, Interstate)
Rate of Return Prescription, Procedures)
and Methodologies, Subpart G, Rate Base)

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AMENDMENT TO BELL ATLANTIC COMMENTS

Bell Atlantic filed comments in this proceeding on April 12, 1996. Although the comments were correctly captioned, the CC docket number was inadvertently left off the filing. A copy of the filing is attached. Bell Atlantic respectfully requests that the Commission associate this filing with the above referenced docket number.

Respectfully submitted,

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BELL ATLANTIC¹ COMMENTS

The Commission cannot treat Other Postretirement Benefit ("OPEB") costs as real for one purpose, and treat those same costs as illusory for another purpose. Having denied ongoing exogenous cost treatment for OPEB costs incurred or amortized after the date of the interim price cap order, it would be arbitrary for the Commission to seek to increase sharing obligations artificially by requiring a rate base deduction for these same costs.

In 1991, the Commission adopted Statement of Financial Accounting Standards No. 106 ("SFAS 106") for regulatory accounting purposes.² This rule change mandated that regulated carriers change from cash to accrual accounting for the recognition of OPEB costs. Bell Atlantic

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

² *Southwestern Bell, GTE Service Corp., Notification of Intent to Adopt Statement of Financial Accounting Standards No. 106*, 6 FCC Rcd 7560 (Com. Car. Bur. 1991).

complied with this requirement, and in doing so, recognized significant costs.³ Because SFAS 106 was not adopted until after the advent of local exchange carrier (“LEC”) price cap regulation, the associated costs could not have been included in the costs going into price caps. Moreover, SFAS 106 costs are not reflected in the annual price cap inflation adjustment.⁴ As a result, the price cap LECs were entitled to recover these new costs as exogenous. Although the Commission initially rejected that claim, that rejection was overturned by D.C. Circuit, which recognized that there were actual costs imposed by the Commission’s requirement of an accounting change.⁵

In its interim price cap order, the Commission subsequently amended its rules and disallowed further exogenous recovery of OPEB costs.⁶ As a result, absent a modification of the Commission’s amended rules, LECs will not recover the costs incurred or amortized following the date of that order that are associated with the transition to accrual accounting for OPEBs. Having denied recognition of these costs as real, the Commission cannot at the same time argue that these “noncash” costs artificially inflate the rate base.

³ The Bell Atlantic Corp. total company cost for implementing SFAS-106 is \$403.4 million. *See 1993 Annual Access Tariff Filings*, CC Docket Nos. 93-193 Phase I, 94-65, 93-193 Phase II, 94-157, DA 95-1485, Bell Atlantic Direct Case at 8 (filed Aug. 14, 1995) (“Bell Atlantic Direct Case”).

⁴ *See* Bell Atlantic Direct Case at 4 and reports cited therein.

⁵ *Southwestern Bell Telephone Company v. FCC*, 28 F.3d 165, 172 (D.C. Cir. 1994).

⁶ *Price Cap Performance Review for Local Exchange Carriers*, 10 FCC Rcd 8961, 9095-96 (1995).

The Commission correctly suggests that ratepayers should only have to pay a return on costs that go towards “used and useful” plant and expenses.⁷ But there has never been a suggestion that the employees earning the OPEBs are not doing work that is used and useful for the regulated services. There also is no dispute that the OPEBs are appropriate compensation for that work. Thus, there is no doubt that these costs benefit the regulated service and are both used and useful.

Nevertheless, the Commission suggests that these costs should not be considered legitimate because “the *recovered* but unpaid [OPEB] costs are capital available to the carrier at no cost.”⁸ But, absent exogenous treatment, the OPEB costs incurred as a result of implementing SFAS 106 are not *recovered*. Indeed, rather than a source of “zero-cost” capital,⁹ these costs, which are imposed by regulatory mandate, have no authorized recovery mechanisms under the rules. Under the Commission proposal, that error would be compounded by requiring those companies subject to sharing to further reduce access rates through a rate base reduction.

Had the Commission not revised its rules and instead allowed continued recovery of these costs through exogenous cost recognition, then the costs would truly be “recovered,” and it would be appropriate for the Commission to require a prospective rate base deduction. Only then would it have been true that the costs were recovered elsewhere and LECs would not be entitled

⁷ ***Responsible Accounting Officer Letter 20, Uniform Accounting for Postretirement Benefits Other Than Pensions in Part 32***, Memorandum Opinion and Order and Notice of Proposed Rulemaking, AAD 92-65, ¶ 33 (rel. Mar. 7, 1996) (“Rate Base NPRM”).

⁸ *Id.*

⁹ *Id.*

to a return on that amount. Having rejected that course of action, however, there is no legitimate basis for the Commission to require removal of these costs from the rate base.

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